IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18072 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL ISHWARBHAI BALCHANDBHAI PATEL - Petitioner(s)
Versus
SUB-REGISTRAR- BIRTH & DEATH DEPARTMENT & 1 - Respondent(s)

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Appearance :

MR PRAFUL J BHATT for Petitioner(s) : 1,
None for Respondent(s) : 1,
MR HEMANG PARIKH, AGP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 20/07/2007

ORAL JUDGMENT

The petitioner has approached this Court for obtaining necessary direction on respondent no. 1 to require him to make necessary correction in the

birth certificate of the petitioner. It is the say of the petitioner that his correct birth date is 22/05/1976. However, due to some mistake, in the birth register maintained at the office of respondent no. 1, his birth date is noted as 22/09/1976. It is the say of the petitioner that in all other official documents such as school leaving certificate, the ration card, etc., his birth date is shown as 22/05/1976. He has further stated that he approached respondent no. 1 requesting him to carry out necessary correction, but he has declined to do so.

2. I have heard Mr. PJ Bhatt, learned advocate for the petitioner and Mr. Hemang Parikh, Ld. AGP for respondents. It is submitted by Mr. Bhatt that bonafide mistake is committed while recording birth date in the birth register, which, the authority is under legal obligation to correct. It is, however, submitted by Mr. Parikh that the petitioner has never cared to get the birth date corrected for all these years and now he cannot be allowed to make grievance before this Court.

3. I have carefully considered the submissions of the learned advocates for the parties. To substantiate his submission Mr. Bhatt has placed reliance on the judgment delivered by the learned Single Judge of this Court in Special Civil Application No. 19683 of 2006 and its allied matters dated 9/10/2006. In the said judgment the learned Judge has placed reliance on section 15 of the Registration of Births and Deaths Act, 1969, which reads as under :-

"<u>Section 15</u>: Correction or cancellation of entry in the register of births and deaths.

If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation."

He has also placed reliance on rule 11 of the Gujarat Registration of Births and Deaths Rules, 2004, which reads as under :-

<u>Rule 11</u> : Correction or cancellation of entry in the register of births and deaths :

1. If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall inquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or canceling the entry) as provided in Section 15 of the Act and shall sent an extract of the entry showing the error and how it has been corrected to the District Registrar of Births and Deaths.

2. In the case referred to in sub rule (1) if the register is not in the possession the Registrar, he/she shall make a report to the District Registrar of Births and Deaths and call for the relevant register and after inquiring into the matter, if he is satisfied that any such error has been made,make the necessary correction.

3. Any such correction as mentioned in sub rule 2 shall be countersigned by the District Registrar of Births and Deaths when the register is received from the Registrar.

4. If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 of the Act upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case.

5. Notwithstanding anything contained in sub-rule (1) and sub-rule (4) the Registrar shall make report of any correction of the kind referred to therein giving necessary details to the District Registrar of Births and Deaths.

6. If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been made fraudulently or improperly, he shall make a report giving necessary details to the officer authorized by the Chief Registrar by general or special order in this behalf under Section 25 of the Act an on hearing from him take necessary action in the matter.

7. In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under Section 8 or Section 9 of the Act.

Thereafter, the learned Judge has made the following observations :-

> "4.3. In pursuance of the aforesaid provision of Act as well as Rules, the respondent authority shall carry out necessary changes in the register upon arriving satisfaction as to change of birth date/name on the basis of evidence led by the petitioners."

4. In view of the same, the respondent no. 1 is directed that he shall consider the application of the petitioner for change of the date of birth in the birth certificate and upon arriving at satisfaction as to the change in date of birth, shall decide the application accordingly and intimate to the petitioner the

decision within seven days thereafter.

With the aforesaid directions, the petition is allowed. Rule is made absolute.

[Akshay H. Mehta, J.]

* Pansala.